

AMENDED IN ASSEMBLY MAY 17, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 784

**Introduced by Committee on Elections, Reapportionment and
Constitutional Amendments (Senators Bowen (Chair), Battin,
Dunn, Murray, Poochigian, and Romero)**

February 22, 2005

An act to amend Section 82015 of the Government Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 784, as amended, Committee on Elections, Reapportionment and Constitutional Amendments. Campaign contributions.

Existing law defines the term "contribution" and includes criteria to be applied in determining whether a payment made at the behest of a candidate is to be excluded from this definition. Payments made "principally for legislative, governmental, or charitable purposes" are among these exclusions, although certain reporting requirements are imposed with respect to these payments.

This bill would extend, for the purposes of this exclusion, the time within which such payments must be reported, from 30 to 90 days, and increase the aggregate threshold amount which must be reported, from \$5,000 to \$7,000. *It would exclude a payment by a local, state, or federal agency from this reporting requirement.*

This bill would also specify that such reporting is not required with respect to payments made in response to press releases, in interviews or public services announcements, as specified, or in communications which identify the elected officer only as part of a listing, as described, and that such reporting is required only if the elected

officer knows or has reason to know that a payment was made at his or her behest.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 82015 of the Government Code is
2 amended to read:
3 82015. (a) "Contribution" means a payment, a forgiveness of
4 a loan, a payment of a loan by a third party, or an enforceable
5 promise to make a payment except to the extent that full and
6 adequate consideration is received, unless it is clear from the
7 surrounding circumstances that it is not made for political
8 purposes.
9 (b) (1) A payment made at the behest of a committee as
10 defined in subdivision (a) of Section 82013 is a contribution to
11 the committee unless full and adequate consideration is received
12 from the committee for making the payment.
13 (2) A payment made at the behest of a candidate is a
14 contribution to the candidate unless the criteria in either
15 subparagraph (A) or (B) are satisfied:
16 (A) Full and adequate consideration is received from the
17 candidate.
18 (B) It is clear from the surrounding circumstances that the
19 payment was made for purposes unrelated to his or her candidacy
20 for elective office. The following types of payments are
21 presumed to be for purposes unrelated to a candidate's candidacy
22 for elective office:
23 (i) A payment made principally for personal purposes, in
24 which case it may be considered a gift under the provisions of
25 Section 82028. Payments that are otherwise subject to the limits

1 of Section 86203 are presumed to be principally for personal
2 purposes.

3 (ii) A payment made by a state, local, or federal governmental
4 agency or by a nonprofit organization that is exempt from
5 taxation under Section 501(c)(3) of the Internal Revenue Code.

6 (iii) A payment not covered by clause (i), made principally for
7 legislative, governmental, or charitable purposes, in which case it
8 is neither a gift nor a contribution. However, *except for a*
9 *payment by a local, state, or federal government agency,*
10 payments of this type that are made at the behest of a candidate
11 who is an elected officer shall be reported within 90 days
12 following the date on which the payment or payments equal or
13 exceed seven thousand dollars (\$7,000) in the aggregate from the
14 same source in the same calendar year in which they are made.
15 The report shall be filed by the elected officer with the elected
16 officer's agency and shall be a public record subject to inspection
17 and copying pursuant to the provisions of subdivision (a) of
18 Section 81008. The report shall contain the following
19 information: name of payor, address of payor, amount of the
20 payment, date or dates the payment or payments were made, the
21 name and address of the payee, a brief description of the goods or
22 services provided or purchased, if any, and a description of the
23 specific purpose or event for which the payment or payments
24 were made. Once the seven thousand dollars (\$7,000) aggregate
25 threshold from a single source has been reached for a calendar
26 year, all payments for the calendar year made by that source must
27 be disclosed within 90 days after the date the threshold was
28 reached or the payment was made, whichever occurs later.
29 Within 30 days after receipt of the report, state agencies shall
30 forward a copy of these reports to the Fair Political Practices
31 Commission, and local agencies shall forward a copy of these
32 reports to the officer with whom elected officers of that agency
33 file their campaign statements.

34 (iv) Subject to clause (v), an elected officer is not required to
35 report a payment pursuant to clause (iii) if the payment is made
36 in response to a press release sent to members of the media, in an
37 interview with the elected officer or a public service
38 announcement that is broadcast or printed by members of the
39 media, or in a communication that identifies the elected officer
40 only as part of a listing or roster that includes the name of the

1 elected officer and other individuals listed appear in the same
2 type size, typeface, and type color.

3 (v) An elected officer is required to report a payment pursuant
4 to clause (iii) only if the elected officer knows, or has reason to
5 know, that a payment was made at his or her behest.

6 (C) For purposes of subparagraph (B), a payment is made for
7 purposes related to a candidate's candidacy for elective office if
8 all or a portion of the payment is used for election-related
9 activities. For purposes of this subparagraph, "election-related
10 activities" shall include, but are not limited to, the following:

11 (i) Communications that contain express advocacy of the
12 nomination or election of the candidate or the defeat of his or her
13 opponent.

14 (ii) Communications that contain reference to the candidate's
15 candidacy for elective office, the candidate's election campaign,
16 or the candidate's or his or her opponent's qualifications for
17 elective office.

18 (iii) Solicitation of contributions to the candidate or to third
19 persons for use in support of the candidate or in opposition to his
20 or her opponent.

21 (iv) Arranging, coordinating, developing, writing, distributing,
22 preparing, or planning of any communication or activity
23 described in clauses (i), (ii), or (iii).

24 (v) Recruiting or coordinating campaign activities of
25 campaign volunteers on behalf of the candidate.

26 (vi) Preparing campaign budgets.

27 (vii) Preparing campaign finance disclosure statements.

28 (viii) Communications directed to voters or potential voters as
29 part of activities encouraging or assisting persons to vote if the
30 communication contains express advocacy of the nomination or
31 election of the candidate or the defeat of his or her opponent.

32 (D) A contribution made at the behest of a candidate for a
33 different candidate or to a committee not controlled by the
34 behesting candidate is not a contribution to the behesting
35 candidate.

36 (c) The term "contribution" includes the purchase of tickets
37 for events such as dinners, luncheons, rallies, and similar
38 fundraising events; the candidate's own money or property used
39 on behalf of his or her candidacy other than personal funds of the
40 candidate used to pay either a filing fee for a declaration of

candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(d) The term “contribution” further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(e) The term “contribution” does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(f) The term “contribution” does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

(g) Notwithstanding the foregoing definition of “contribution,” the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

- 1 To amend existing law regarding contributions to political
- 2 candidates and the filing of campaign statements, it is necessary
- 3 that this act take effect immediately.

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